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**UNITED STATES DEPARTMENT OF COMMERCE**  
**United States Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/440,098	11/16/99	HAGEBARTH	0056494

QM21/0830  
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EXAMINER
FERNSTROM, K

ART UNIT	PAPER NUMBER
3712	

DATE MAILED: 08/30/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

**Office Action Summary**

Application No.

09/440,690

Applicant(s)

Hagebarth

Examiner

Fernstrom

Group Art Unit

3712

☐ Responsive to communication(s) filed on \_\_\_\_\_.☐ This action is **FINAL**.☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

**Disposition of Claims**☒ Claim(s) 1-21 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.☒ Claim(s) 1-21 is/are rejected.☐ Claim(s) \_\_\_\_\_ is/are objected to.☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.**Application Papers**☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.☐ The specification is objected to by the Examiner.☐ The oath or declaration is objected to by the Examiner.**Priority under 35 U.S.C. § 119**☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).☒ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been☒ received.☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).**Attachment(s)**☒ Notice of References Cited, PTO-892☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2, 5☐ Interview Summary, PTO-413☒ Notice of Draftsperson's Patent Drawing Review, PTO-948☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. The terms “would like to spend” and “expected to have completed,” are vague and indefinite because it is not clear how these terms are defined, and how they limit the scope of the claim. Further, the claims contain numerous examples of “conditional” method steps, as for example in claims 2, 4-6 and 16, whereby the claimed steps are to be performed only if some predefined condition exists. These claims are indefinite because it is not clear whether these method steps are actually being performed, and thus are part of the claimed invention, or not.

4. Claims 9-11 are indefinite because the use of alternate terms in parentheses in claims 9 and 11 makes the scope of the claims unclear, and because the phrase “in particular the Internet” in claim 10 is vague in that it is unclear whether the Internet is considered to be part of the claim or not. Also, terms such as “Internet” and “Intranet” should be capitalized.

5. Claim 1 recites the limitations “the training course” in lines 9, 13, 16 and “the training unit” in lines 21 and 23. There is insufficient antecedent basis for these limitations in the claim

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because a training course and a training unit are not positively recited in the claim, but rather are merely recited in the preamble as part of the intended purpose of the process. Claim 15, as well as numerous dependent claims including claims 2, 4-11 also contains the same limitations and is indefinite for the same reason.

6. Claim 3 recites the limitation "the monitoring result" in line 2. There is insufficient antecedent basis for this limitation in the claim.

7. Regarding claim 14, the phrase "or the like" renders the claim indefinite because the claim includes elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claims unascertainable. See MPEP § 2173.05(d). Also, the terms "can run" and "suitable" render the claim indefinite because it is not clear how these terms define the scope of the invention.

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson in view of Shimizu. The claims as understood are directed towards a method and apparatus for

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creating and monitoring a progress plan for a training course. Peterson discloses in column 3, line 10 to column 16, line 64 of the specification an apparatus and method of training a student comprising a computer network which creates a schedule for the user to perform the training and monitors the progress. In particular, column 12, lines 8-38 describe the use of schedule reports, which monitor the time and duration of training sessions by the user and compare the schedule with a prescribed schedule to ensure that the user is maintaining the prescribed schedule. The user is notified if he or she is not maintaining the prescribed schedule. Peterson further discloses in column 3, lines 35-36 that the computer network may comprise the Internet, and in column 15, lines 22-67 that the computer network may comprise an Intranet. To the extent that definition of "time periods which the student would like to spend" constitutes a positive limitation on the claims, Peterson fails to disclose this feature. Shimizu discloses in column 4, lines 2-47 of the specification a method of creating a progress plan for a training program whereby the trainee can specify convenient dates and times to attend lectures, receive a list of available lectures in response, and select a preferred schedule from the list. It would have been obvious to one of ordinary skill in the relevant art to modify the method and apparatus disclosed by Peterson by providing means for defining time units representing time periods which the student would like to spend training for the purpose of allowing the student to select a preferred training schedule. While neither Peterson nor Shimizu explicitly discloses the use of electronic mail to provide information to the student, electronic mail is an extremely well known means of transmitting information over a computer network, and would have been obvious to one of ordinary skill in the

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relevant art for the purpose of directly notifying a student of any pertinent information regarding the progress plan.

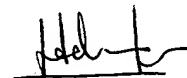
***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pearse and Jenkins disclose training programs conducted over a computer network comprising means for creating and monitoring a training schedule.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Fernstrom whose telephone number is (703) 305-0303.

KF

August 10, 2001



JACOB K. ACKUN, JR.  
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